



FH

**STATE OF WISCONSIN  
Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

[REDACTED]

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**PRELIMINARY RECITALS**

Pursuant to a petition filed June 9, 2015, under Wis. Admin. Code § HA 3.03, to review a decision by the Bureau of Long-Term Support in regard to Medical Assistance, a hearing was held on July 23, 2015, at Chippewa Falls, Wisconsin.

The issue for determination is whether the petitioner is entitled to reimbursement for a walk-in shower.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: [REDACTED]  
Bureau of Long-Term Support  
1 West Wilson

Madison, WI

**ADMINISTRATIVE LAW JUDGE:**

Michael D. O'Brien  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. The petitioner is a resident of Chippewa County.
2. The petitioner receives medical assistance-waiver services through the IRIS program.
3. IRIS denied the petitioner's request on May 1, 2015.

- [REDACTED]
4. The petitioner is 79 years old and weighs over 200 pounds. She has to walk into her current shower sideways and step over a ledge, which is difficult for her. She also is self-conscious about being seen without clothing.
  5. The petitioner's daughter provides 8.75 hours of supportive home care for showering to the petitioner each month. This care costs \$10. Even if the petitioner received the requested walk-in shower, her daughter would help the petitioner wash and dry herself.
  6. The petitioner has not agreed to less supportive home care if the shower is granted.

### **DISCUSSION**

Certain types of durable medical equipment must be authorized by the Division of Health Care Financing before they can be paid for by the medical assistance program. *See* Wis. Admin. Code, § DHS 107.24. The petitioner receives MA-Waiver services through IRIS. She requests that the program pay for a walk-in shower at a cost of approximately \$5,100. The Division of Health Care Financing denied the request because it contends that the chair is not cost effective..

When determining whether a service is necessary, the division must review, among other things, the medical necessity of the service, the appropriateness of the service, the cost of the service, the extent to which less expensive alternative services are available, and whether the service is an effective and appropriate use of available services. Wis. Adm. Code § HFS 107.02(3)(e)1.,2.,3.,6. and 7. "Medically necessary" means a medical assistance service under ch. HFS 107 that is:

- (a) Required to prevent, identify or treat a recipient's illness, injury or disability; and
- (b) Meets the following standards:
  1. Is consistent with the recipient's symptoms or with prevention, diagnosis or treatment of the recipient's illness, injury or disability;
  2. Is provided consistent with standards of acceptable quality of care applicable to the type of service, the type of provider, and the setting in which the service is provided;
  3. Is appropriate with regard to generally accepted standards of medical practice;
  4. Is not medically contraindicated with regard to the recipient's diagnoses, the recipient's symptoms or other medically necessary services being provided to the recipient;
  5. Is of proven medical value or usefulness and, consistent with s. HFS 107.035, is not experimental in nature;
  6. Is not duplicative with respect to other services being provided to the recipient;
  7. Is not solely for the convenience of the recipient, the recipient's family, or a provider;
  8. With respect to prior authorization of a service and to other prospective coverage determinations made by the department, is cost-effective compared to an alternative medically necessary service which is reasonably accessible to the recipient; and
  9. Is the most appropriate supply or level of service that can safely and effectively be provided to the recipient.

Wis. Admin. Code, § DHS 101.03(96m).

The petitioner's daughter testified that the petitioner must walk into the current shower sideways because otherwise she is too obese to fit through the door. She also requires help getting over the ledge at the front of the shower. The petitioner's daughter contends her mother would like to be able to walk into the shower without assistance because she is modest. This is understandable, but even if the petitioner got the requested shower she would still need help washing and drying her back, neither of which would occur while she was clothed. In addition, one potential justification for a walk-in shower is that it would save money by making the petitioner more independent. But she has not agreed to less supportive home care if

the request is granted. Based upon this, I find that the Division of Health Care Access and Accountability correctly denied the requested shower.

### **CONCLUSIONS OF LAW**

The IRIS program and the Division of Health Care Access and Accountability correctly denied the petitioner's request for a walk-in shower because it is not medically necessary.

**THEREFORE, it is**

### **ORDERED**

The petitioner's appeal is dismissed.

### **REQUEST FOR A REHEARING**

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

### **APPEAL TO COURT**

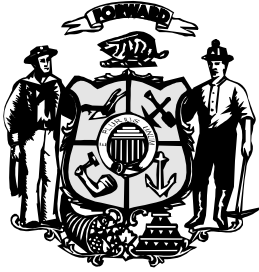
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,  
Wisconsin, this 21st day of August, 2015

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\sMichael D. O'Brien  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on August 21, 2015.

Bureau of Long-Term Support